

SENATE AMENDMENTS

2nd Printing

By: Leman, Bell of Kaufman, Gates, Smith,
Middleton

H.B. No. 3379

A BILL TO BE ENTITLED

AN ACT

relating to the duty to report child abuse and neglect.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 261.101, Family Code, is amended by amending Subsections (a), (b), and (b-1) and adding Subsection (b-2) to read as follows:

(a) A person having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.

(b) If a professional has reasonable cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has reasonable cause to believe that the child has been abused as defined by Section 261.001, the professional shall make a report not later than the 48th hour after the hour the professional first has reasonable cause to believe [~~suspects~~] that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code. A professional may not delegate to or rely on another person to make the report. In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license

1 or certification is required, has direct contact with children.
2 The term includes teachers, nurses, doctors, day-care employees,
3 employees of a clinic or health care facility that provides
4 reproductive services, juvenile probation officers, and juvenile
5 detention or correctional officers.

6 (b-1) In addition to the duty to make a report under
7 Subsection (a) or (b), a person or professional shall make a report
8 in the manner required by Subsection (a) or (b), as applicable, if
9 the person or professional has reasonable cause to believe that an
10 adult was a victim of abuse or neglect as a child and the person or
11 professional determines in good faith that disclosure of the
12 information is necessary to protect the health and safety of:

- 13 (1) another child; or
14 (2) an elderly person or person with a disability as
15 defined by Section 48.002, Human Resources Code.

16 (b-2) A person who with due diligence in good faith timely
17 determines whether the person is required to make a report under
18 this section does not commit an offense under Section 261.109(a) or
19 (a-1) if the person reasonably determines the person lacks
20 reasonable cause to make the report. This subsection does not
21 require the person to act with due diligence to determine whether a
22 report must be made under this section.

23 SECTION 2. The changes in law made by this Act apply only to
24 a report of suspected abuse or neglect of a child that is made on or
25 after the effective date of this Act. A report of suspected abuse
26 or neglect that is made before that date is governed by the law in
27 effect on the date the report was made, and that law is continued in

1 effect for that purpose.

2 SECTION 3. This Act takes effect September 1, 2021.

ADOPTED

MAY 24 2021

Lately Spaw
Secretary of the Senate

By: *L. W. Kolbe*

H.B. No. 3379

Substitute the following for H.B. No. 3379:

By: *Anna Campbell*

C.S. H.B. No. 3379

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AN ACT

relating to the duty to report child abuse and neglect.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 261.101(a), (b), and (b-1), Family Code, are amended to read as follows:

(a) A person having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.

(b) If a professional has reasonable cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has reasonable cause to believe that the child has been abused as defined by Section 261.001, the professional shall make a report not later than the 48th hour after the hour the professional first has reasonable cause to believe [~~suspects~~] that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code. A professional may not delegate to or rely on another person to make the report. In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children.

1 The term includes teachers, nurses, doctors, day-care employees,
2 employees of a clinic or health care facility that provides
3 reproductive services, juvenile probation officers, and juvenile
4 detention or correctional officers.

5 (b-1) In addition to the duty to make a report under
6 Subsection (a) or (b), a person or professional shall make a report
7 in the manner required by Subsection (a) or (b), as applicable, if
8 the person or professional has reasonable cause to believe that an
9 adult was a victim of abuse or neglect as a child and the person or
10 professional determines in good faith that disclosure of the
11 information is necessary to protect the health and safety of:

12 (1) another child; or

13 (2) an elderly person or person with a disability as
14 defined by Section 48.002, Human Resources Code.

15 SECTION 2. The changes in law made by this Act apply only to
16 a report of suspected abuse or neglect of a child that is made on or
17 after the effective date of this Act. A report of suspected abuse
18 or neglect that is made before that date is governed by the law in
19 effect on the date the report was made, and that law is continued in
20 effect for that purpose.

21 SECTION 3. This Act takes effect September 1, 2021.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 24, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3379 by Leman (Relating to the duty to report child abuse and neglect.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code to change the burden for reporting child abuse and neglect to having reasonable cause to believe that a child has been adversely affected by abuse or neglect.

According to the Office of Court Administration, no significant impact to the state court system is anticipated.

The Department of Family and Protective Services anticipates no fiscal impact to the department.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, SD, AKI, DPE, CMA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 22, 2021

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3379 by Leman (Relating to the duty to report child abuse and neglect.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code to change the burden for reporting child abuse and neglect to having reasonable cause to believe that a child has been adversely affected by abuse or neglect.

According to the Office of Court Administration, no significant impact to the state court system is anticipated.

The Department of Family and Protective Services anticipates no fiscal impact to the department.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, AKI, DPE, CMA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 20, 2021

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3379 by Lemman (Relating to the duty to report child abuse and neglect.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code to change the burden for reporting child abuse and neglect to having reasonable cause to believe that a child has been adversely affected by abuse or neglect.

According to the Office of Court Administration (OCA), no significant impact to the state court system is anticipated.

The Department of Family and Protective Services anticipates no fiscal impact to the department.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

According to the Texas Association of Counties, no significant fiscal impact to counties is anticipated.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, AKI, DPE, CMA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 8, 2021

TO: Honorable James B. Frank, Chair, House Committee on Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3379 by Leman (Relating to the duty to report child abuse and neglect.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code to change the burden for reporting child abuse and neglect to having reasonable cause to believe that a child has been adversely affected by abuse or neglect.

According to the Office of Court Administration (OCA), no significant impact to the state court system is anticipated.

The Department of Family and Protective Services anticipates no fiscal impact to the department.

Local Government Impact

According to the Texas Association of Counties, no significant fiscal impact to counties is anticipated.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, AKI, CMA, DPE

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 28, 2021

TO: Honorable James B. Frank, Chair, House Committee on Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3379 by Leman (Relating to the duty to report child abuse and neglect.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code to increase the burden for reporting child abuse and neglect to having credible information that causes a belief that a child has been adversely affected by abuse or neglect.

According to the Office of Court Administration (OCA), no significant impact to the state court system is anticipated.

The Department of Family and Protective Services anticipates no fiscal impact to the department.

Local Government Impact

According to the Texas Association of Counties, no significant fiscal impact to counties is anticipated.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, AKI, CMA, DPE

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

May 22, 2021

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3379 by Lemman (Relating to the duty to report child abuse and neglect.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Family Code as it relates to the duty to report child abuse and neglect. Under the provisions of the bill, a person who has reasonable cause to believe a child has been abused or neglected would make a report as outlined in the bill. Under current statute, failure to report child abuse or neglect is punishable as a Class A misdemeanor or state jail felony based on the specific circumstances of the offense.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A misdemeanor punishment. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Narrowing the circumstances for an offense in certain circumstances is expected to result in fewer demands upon the correctional resources of counties or of the State due to a decrease in the number of individuals placed onto supervision in the community or sentenced to a term of confinement within state correctional institutions. From fiscal years 2018 through 2020, fewer than ten people were arrested, placed onto felony direct community supervision, or admitted into a state correctional institution for the state jail felony offense of failure to report child abuse or neglect under existing statute. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, AKI, LM, SPA

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT
87TH LEGISLATIVE REGULAR SESSION**

May 20, 2021

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3379 by Leman (Relating to the duty to report child abuse and neglect.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Family Code as it relates to the duty to report child abuse and neglect. Under the provisions of the bill, a person reasonably determines there is lack of reasonable cause to make a report would not commit the offense of failure to report as outlined in the bill. Under current statute, failure to report child abuse or neglect is punishable as a Class A misdemeanor or state jail felony based on the specific circumstances of the offense.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A misdemeanor punishment. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Providing for an exception for an offense in certain circumstances is expected to result in fewer demands upon the correctional resources of counties or of the State due to a decrease in the number of individuals placed onto supervision in the community or sentenced to a term of confinement within state correctional institutions. From fiscal years 2018 through 2020, fewer than ten people were arrested, placed onto felony direct community supervision, or admitted into a state correctional institution for the state jail felony offense of failure to report child abuse or neglect under existing statute. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, AKI, LM, SPA